

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RIGOBERTO SARMIENTO, et al.,

Plaintiffs,

v.

FRESH HARVEST, INC., et al.,

Defendants.

Case No. [20-cv-07974-BLF](#) (SVK)

**DISCOVERY ORDER ON
SEPTEMBER 17, 2021 JOINT
SUBMISSION**

Re: Dkt. No. 107

The Court has evaluated the Declaration of Ian Michalak regarding Defendants Fresh Harvest's and SMD's searches for responsive documents (Dkt. 104) and the Parties' subsequent Joint Discovery Submission following Defendants' September 13, 2021 supplemental production. Dkt. 107. Accordingly, the Court **ORDERS** as follows:

I. Supplemental Declarations, Submissions of Counsel, Discovery Hearing Date

In some instances identified below, the Court finds the description in Dkt. 104 of the search conducted, coupled with relatively few documents produced, insufficient to confirm that Defendants have complied with this Court's previous orders. Where noted, the Court orders additional searches supported by declarations of the parties. The declarations shall identify with specificity the additional searches conducted. Such specificity shall identify the specific email accounts, other "electronic databases" and any other sources searched, as well as the exact search terms used in the searches. Supplemental declarations be filed no later than **noon on September 24, 2021**, and additional documents shall be produced no later than **September 27, 2021**.

In some instances, the Court invites further submission by Plaintiffs' counsel. Such submission shall not exceed 2 pages and shall be filed no later than **noon on September 24, 2021**.

The Parties are to reserve **September 29, 2021 at 10 a.m.** for a discovery hearing, by video, if the Court deems it necessary. Mr. Michalak, and any other counsel that signs a declaration, must appear at the hearing.

I. Dkt. 107 Rulings

References to specific issue numbers below refer to the issues identified in Dkt. 107. References to paragraph numbers refer to the Michalak declaration at Dkt. 104.

Issue 1: The custodians identified by Defendants in paragraph 6 are sufficient. However, Defendants' search for responsive documents as described in paragraph 6 is insufficient. Defendants are to conduct further searches and to provide declarations of Ms. Ridaura and Mr. David Scaroni that comply with the directive above.

Issue 2: The search terms identified ("FLAG," "Farm Labor Associate for Growers," "FLAG minutes," and "FLAG formation") in paragraph 7 are sufficient. However, Defendants' search for responsive documents as described in paragraph 7 is insufficient. Defendants are to conduct further searches and to provide a supplemental declaration of Ms. Ridaura that complies with the directive above.

Plaintiff may make a submission setting forth the basis for adding the term "joint employ!" and as to the relevance of Associate Membership Agreements with any entity other than the Defendants in this action.

Issue 3: Defendants' search for responsive documents as described in paragraph 9 is insufficient. Defendants are to conduct further searches, including the email account of Ms. Camacho, and to provide declarations of Ms. Ridaura and Mr. David Scaroni that comply with the directive above.

Issue 4: Resolved by the Parties.

Issue 5: Plaintiffs' objections are overruled. The Court and the Parties discussed the production of responsive documents reflecting payments to drivers at length in the hearing on September 8, 2021. For the reasons discussed on the record, this production as ordered was narrower than the broad directive for all native files as kept in the ordinary course of business. Thus, Defendants have complied with the Court's order.

4 **SO ORDERED.**
5 Dated: September 21, 2021

3